



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: September 10, 2015

To: Robert Best, Chairman, & Members, Planning Board

From: Jillian M. Harris, AICP, Planning & Zoning Administrator

Subject: **John J. Flatley Company (applicant/owner)** – Review for acceptance and consideration of Final Approval of an application for a site plan to construct 240 multi-family residences, clubhouse, and associated parking and drainage improvements, per the requirements of the Flatley mixed use Conditional Use Permit. The parcels are located at # 645, 673, 685, 703 and 707 D.W. Highway in the I-1 (Industrial), Aquifer Conservation and Wellhead Protection Districts. Tax Map 6E, Lots 003-01, 003-03, 003-04, 003-05 & 003-06. ***This item is continued from the June 16, July 21, August 18 and September 1, 2015 Planning Board meetings.***

Background: Please see the June 11, 2015 and September 1, 2015 Memos for background information on this application, in addition to background memos provided during 2014 on the entire project during the Conditional Use Permit process. At the September 1st meeting the applicant discussed phasing of the mixed use project with the Board and an agreement that had been reached with the Homestead Restaurant, on an abutting parcel, to provide parking on the Flatley parcel for the restaurant. The Board will need to consider the phasing requirements approved in the Conditional Use Permit Development Agreement and the possible need for amending the CUP if the Board approves a phasing plan that is not consistent with that agreement.

Also discussed at the 9/1 meeting was a previous design element that had been removed from the plan after a meeting with the Conservation Commission. The applicant had a bridge crossing over the wetland area of the parcel abutting the south property line previously and the Board asked that the applicant revisit that discussion with the Conservation Commission, as it would be a nice addition to the trail network and a good educational experience for future residents of the property. Staff understands that the Conservation Commission will discuss this on September 14th.

The applicant noted that they would be submitting an application to the Zoning Board of Adjustment for a Special Exception to encroach into the 25' no-disturb wetland buffer, as the encroachment would consist of parking, landscaping and a pedestrian way and would be minimal while meeting the design elements that both the applicant and the Planning Board want to see.

The applicant submitted a revised plan set on September 4, 2015 to address Planning Board comments, previous staff comments and peer review comments.

Completeness: The Conditional Use Permit is now finalized (signed by the Board on 9/1), which allows the multi-family residential use in this district. **Staff recommends that the Board vote to accept the application**, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision.

Waivers: The applicant has not requested any waivers at this time. The Board may want to consider if a waiver is needed for Section 4.05.d – buildings within 200' of the boundaries of the parcel to be

subdivided and intersecting roads and driveways within 300' of the subdivision frontage on existing roads. In addition a waiver may be needed for Section 11.05 – parking lot lighting.

Recommendation: Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:44:

- Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; **or**
- Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

The planning staff recommends the Board continues the application to a date certain, in order to allow for review and comment from other town departments and time for the applicant to address outstanding design issues and phasing issues. Should the Board decide to grant conditional final approval to the application, staff recommends that the following precedent conditions be fulfilled within 6 months and prior to plan signing, unless otherwise specified:

1. Final plans and mylars to provide all professional endorsements and be signed by all property owners;
2. A draft copy of any proposed easements and any applicable legal documents to be submitted to the Community Development Department, as applicable, for review and approval by the town's legal counsel (legal review shall be performed at the applicant's expense);
3. Project phasing is to be visually indicated and noted on the plan per Planning Board approval and the Conditional Use Permit shall be required to be amended, as necessary if phasing as part of this site plan conflicts with the CUP approval and Development Agreement;
4. The applicant shall obtain all necessary state permits, provide copies of the permits to the Community Development Department file, and note the approvals in the notes on the plan;
5. The applicant shall address the following and any forthcoming comments from the Conservation Commission (as applicable);
 - a. The Commission requests no use of salt or de-icing compounds at the proposed site. This is due the vicinity of the Brook, the Merrimack River, and being in a Wellhead protection area.
 - b. The Commission proposes that only low phosphate, slow release nitrogen fertilizers be used as part of the project. The Commission further recommends that the applicant's contractor considers utilizing a soil testing facility to determine what levels and applications rates may be necessary before doing any application of fertilizes on the site.
 - c. Erosion control and maintenance notes using the word "hay", we prefer all references to hay in the plan set be changed to straw to minimize the introduction of non-native grasses and other plants through seeds often found as part of hay.
 - d. The plans showed a few places where the 25' no-disturb buffer of a wetland may be encroached upon, in general we recommend that not be allowed except for where a current encroachment may be already happening and the project does not increase the impact or increase the severity of the impact.
6. The applicant shall address the following and any forthcoming comments from the Public Works Department:

- a. The parcel is located in the State ROW – NHDOT District 5 should be asked for comments;
 - b. The project is within ¼ mile of the Merrimack River – comments should be solicited from the LMRLAC;
 - c. The project should connect to the ROW of Allen Road with a full town standard road or an emergency access road;
7. The applicant shall address any forthcoming comments from the Fire Department (as applicable);
 8. The applicant shall address any forthcoming comments from MVD (as applicable);
 9. The applicant shall address the following and any forthcoming comments from the Wastewater Division (as applicable);
 - a. A Town of Merrimack Wastewater Permit Application must be completed and approved by the Wastewater Division before final plan can be approved by the Merrimack Wastewater Division. This permit also generates the appropriate sewer connection fees due the town before building permits can be issued.
 - b. All sewerage manholes must be designed in roadways not islands.
 - i. All new sewerage lines and manholes installed are to be private. This system upon completion will be maintained by the owner not the Town of Merrimack.
 - ii. A capacity, management, operation, and maintenance plan shall be in place before any certificate of occupancy will be signed.
 - iii. All buildings must have an outside backflow preventer as indicated by Merrimack Sewerage Construction Standards.
 - c. Sheet 7: Plan shows construction of an 11' wide 65' long gravel road. This is a cross country easement and must be 20' wide to the railroad tracks with a turnaround for large vehicles.
 - d. Sheet 10: SMH 1&2 must be relocated to drive lanes of parking lots for access.
 - e. Sewer laterals from building 1&2 must connect at a manhole not a wye
 - f. Sheet 11: Numbers used on existing sewerage manholes are incorrect.

Plan #	Actual#
2723	189
2695	601
2680	602
2645	603
2677	604
2678	605
6097	606
6150	607

- g. SMH-4 must be moved to a driveway area out of the island

- h. Sewer laterals from building 3, 4, & 5 must connect at a manhole not a wye.
 - i. Existing sewerage collector pipe shall remain accessible by maintenance equipment. The area from SMH 605 to SMH 607 shall either be a 20' wide maintained gravel road or be 20' wide "grass-pave" material capable of holding 70,000 lbs. loading.
 - j. Sheet 30: House service details: Service Connection: Remove detail. All connections will be to manholes. Concrete Full Encasement: Remove detail-not allowed Chimney: remove-not allowed
 - k. Note 5: remove
 - l. Note 7: remove-testing by low pressure as in standards
 - m. Note 11: remove
 - n. Note 12: remove
 - o. Note 13: remove
 - p. Sheet 30 cont'd: Standard manhole details: Note 13 should state Town of Merrimack Sanitary Sewer Engineering Standards...Not Wilton.
 - q. Note 6 shall include no "india" covers
10. The applicant shall verify that all applicable comments from the Town's peer review consultant, CLD, have been satisfactorily addressed;
11. The applicant shall address all applicable comments from the Lower Merrimack Local Advisory Committee (LMRLAC), as part of the NHDES AOT permitting;
12. The applicant shall address the following planning staff technical comments:
- a. Applicant to clarify Note 2 – Sheet 2 to reference Section 2.02.4.C(4) for zoning, pertaining to Section 15 for dimensional requirements for PUD uses including residential;
 - b. Applicant to clarify approved phasing from final CUP development agreement and Master Site Development Plan dated September 1, 2015 on Note 5 – Sheet 2 which references five (5), 48 unit apartment buildings whereas four (4) are approved as part of Phase 1 of the CUP;
 - c. Applicant to clarify Note 7 – Sheet 2 to note compliance as per the CUP approval;
 - d. Applicant to correct typo in Note 9 – Sheet 2 from “pre” to “per” under Community Center Parking;
 - e. Applicant to remove “subsequent” from Note 10 – Sheet 2;
 - f. Applicant to remove misplaced period in Note 15 – Sheet 2;
 - g. Applicant to correct Note 16 – Sheet 2 which should reference Chapter 167 of the Town’s Code of Ordinances (no longer Chapter 412);

- h. Applicant to include in Note 17 – Sheet 2 which sheet(s) are to be recorded with HCRD;
- i. Applicant to correct typo in Note 21 – Sheet 2 from “Oni” to “On”;
- j. Applicant to provide documentation of approval from the Merrimack Conservation Commission and Merrimack Village District on wording of Note 22 – Sheet 2;
- k. Applicant to add wording “for a mixed use development on” prior to “this site” in Note 24 – Sheet 2;
- l. Applicant to receive and add a note indicating a special exception for activity within the 25’ no-disturb wetland buffer or to re-design so as to no longer require the exception.
- m. Applicant to correct Sheet 15 titled “Landscaping Plan 2” to “Site Lighting Plan 2”;
- n. Applicant to add a note on open space per Section 4.10 on either the Master Site Plan or the Landscape Plan;
- o. Applicant to provide details for full cut-off lighting or to request a waiver as necessary;
- p. Applicant to revise lighting plan to show a maximum uniformity ratio of 4:1 per Section 11.05 or to request a waiver as necessary;
- q. Applicant to review the planting list to determine if recommended varieties from Section 11 can be substituted for similar varieties in the landscaping plan;
- r. Applicant to submit a revised architectural plan specific to the proposed development and no longer titled “Tara Heights” in Nashua, NH.

Staff also recommends that the following general and subsequent conditions be placed on the approval:

- 1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
- 2. All proposed easements and any applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
- 3. The Applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor) after all units are completed to the Community Development Department prior to the issuance of a Certificate of Occupancy, for the final building (assuming project phasing remains consistent with the CUP and is not amended).

Cc: File
Correspondence
John J. Flatley Company, Applicant/Owner

Ec: Fire Captain John Manuele
Kyle Fox, Deputy Director of Public Works/Town Engineer
Ken Conaty & Jim Taylor, Wastewater Division
Building Official Fred Kelley
Carol Miner, Building Department